

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 14th day of September, two thousand and six..

PRESENT:

HON. ROBERT D. SACK,
HON. ROBERT A. KATZMANN,
HON. REENA RAGGI,
Circuit Judges.

Javed Imran,
Petitioner,

-v.-

Alberto R. Gonzales, U.S. Department of Justice,
Michael Chertoff, U.S. Department of Homeland Security
Respondents.

No. 06-0265-ag
NAC

FOR PETITIONER: Sandra P. Nichols, New York, New York.

FOR RESPONDENTS: Richard B. Roper, United States Attorney for the Northern District of Texas, Roger L. McRoberts, Assistant United States Attorney, Lubbock, Texas.

UPON DUE CONSIDERATION of this petition for review of the Board of Immigration Appeals (“BIA”) decision, it is hereby ORDERED, ADJUDGED, AND DECREED that the petition for review is DENIED.

1 Petitioner Javed Imran, a native of Pakistan, seeks review of a December 23, 2005 order
2 of the BIA affirming the July 9, 2004 decision of Immigration Judge (“IJ”) Philip L. Morace
3 denying his application for asylum, withholding of removal, and relief under the Convention
4 Against Torture (“CAT”). *In re Javed Imran*, No. A 79 108 751 (B.I.A. Dec. 23, 2005), *aff’g*
5 No. A 79 108 751 (Immig. Ct. N.Y. City July 9, 2004). We assume the parties’ familiarity with
6 the underlying facts and procedural history of the case.

7 Where, as here, the BIA summarily affirms the decision of the IJ without issuing an
8 opinion, *see* 8 C.F.R. § 1003.1(e)(4), this Court reviews the IJ’s decision as the final agency
9 determination. *See, e.g., Twum v. INS*, 411 F.3d 54, 58 (2d Cir. 2005); *Yu Sheng Zhang v. U.S.*
10 *Dep’t of Justice*, 362 F.3d 155, 159 (2d Cir. 2004). This Court reviews the agency’s factual
11 findings, including adverse credibility determinations, under the substantial evidence standard,
12 treating them as “conclusive unless any reasonable adjudicator would be compelled to conclude
13 to the contrary.” 8 U.S.C. § 1252(b)(4)(B); *see Zhou Yun Zhang v. INS*, 386 F.3d 66, 73 & n.7
14 (2d Cir. 2004). A determination “based on flawed reasoning . . . will not satisfy the substantial
15 evidence standard,” and the agency’s use of “an inappropriately stringent standard . . . constitutes
16 *legal*, not factual error.” *Id.*; *Cao He Lin v. U.S. Dep’t of Justice*, 428 F.3d 391, 400 (2d Cir.
17 2005) (internal quotation marks omitted).

18 Assuming Imran to have been found by the IJ to be credible, substantial evidence
19 supports the IJ’s determination that he failed to provide sufficient proof to establish eligibility for
20 relief. To constitute persecution, mistreatment must be sufficiently severe to rise above “mere
21 harassment.” *Ivanishvili v. U.S. Dep’t of Justice*, 433 F.3d 332, 341 (2d Cir. 2006); *Tian-Yong*
22 *Chen v. INS*, 359 F.3d 121, 127 (2d Cir. 2004). Imran was never personally threatened by
23 anyone in Pakistan, and there is no evidence to indicate that were he forced to sell his land, he
24 would suffer severe economic deprivation or any other kind of persecution. In addition, Imran

1 stated that no one in his family, other than his grandfather, ever had any problems with Hindus in
2 the Punjab. Substantial evidence also supports the IJ's finding that Imran could have safely
3 relocated to another part of Pakistan. He testified that Hindus were powerful only in a "specific
4 area . . . [in the] southeast zone of Punjab," where the land in question was located. We agree
5 that Imran provided insufficient evidence that the regionally powerful Hindus in the Punjab could
6 reach him in other parts of Pakistan.

7 Because substantial evidence supports the IJ's findings that Inram failed to establish
8 eligibility for asylum, we do not reach the question of whether Inram's status as a Muslim
9 landowner in southeastern Punjab constitutes a particular social group. In addition, we note that
10 Inram failed to raise a withholding or CAT claim before this Court, and those issues are therefore
11 considered waived. *See Yueqing Zhang v. Gonzales*, 426 F.3d 540, 541 n.1, 545 n.7 (2d Cir.
12 2005).

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14 For the foregoing reasons the petition for review is DENIED. Having completed our
15 review, any stay of removal that the Court previously granted in this petition is VACATED, and
16 any pending motion for a stay of removal in this petition is DENIED. Any pending request for
17 oral arguments in this case is DENIED in accordance with Federal Rule of Appellate Procedure
18 34(a)(2), Second Circuit Local Rule 34(d)(1).

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22 FOR THE COURT:
23 Roseann B. MacKechnie, Clerk

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25 By: _____
26 Oliva M. George, Deputy Clerk